THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 8101 of 1996

18-11-2005

Between:

Nagineni Venkata Subba Naidu, S/o. Chengaiah,
R/o. Mitta Kammapalli Village, Pullampet Mandal,
Cuddapah District.

..... PETITIONER

AND

1 The Sub-Registrar, Tirupathi, Stamps & Registration Dpt.,
Tirupathi Mandal, Chittoor District.
2 The Mandal Revenue Officer,
Tirupathi Mandal, Tirupathi,
Chittoor District.

.....RESPONDENTS

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O R D E R:

No representation on behalf of the petitioner.

Perused the record.

The case of the petitioner is that he having filed a suit for specific performance of agreement of sale dated 04-06-1978 in his favour in respect of the land in S.No.99/5 of Akkarampalli village executed by Bayyala Sri Ramulu obtained a

decree for specific performance and after the appeal preferred by the defendant was dismissed filed a petition for execution and deposited the balance sale consideration due and payable under the agreement and sought for execution of the sale deed and so the Court after executing the sale deed on behalf of the defendant sent it for registration but the Sub-Registrar (1st respondent) refused to receive the same on the ground that he has instructions from the revenue officials not to register the documents in respect of land in S.No.99/5, action of the 1st respondent in refusing to register the document on the basis of the instructions of the revenue officials, disregarding the decree for specific performance by the Civil Court is improper and so a direction may be given to the 1st respondent to register the document sent for registration.

1st respondent did not file his counter affidavit.

2nd respondent-Mandal Revenue Officer filed his counter affidavit *inter alia* contending that since the land in S.No. 99/5 is classified as (A.W.D) in the village accounts, the same belongs to Government. Sales said to have taken place in respect of land in S.No.99/5 in the year 1956 and 1977 have no relevance in this case and since Government is not a party to the suit filed by the petitioner, the decree obtained by him is not binding on the Government, and in view of the provisions of the Andhra Pradesh Assignment Land (Prohibition of Transfer Act), 1977 (1977 Act) land belonging to the Government cannot be registered by the

Sub-Registrar and so 1st respondent refusing to register the sale deed cannot be found fault with.

The decree in a suit for specific performance filed by the purchaser against the vendor can be executed even if the vendor has no title to the land agreed to be sold by him because vendor cannot take a defence that he has no title to the land agreed to be sold by him. If really the vendor has no title to the land agreed to be sold by him, registration of the document

per se would not convey title to the land covered by the sale deed to the purchaser in view of the rule *Nemo dat Qud non* habit. (No one can convey a better title than what he has). Section 22-A of the Registration Act, introduced by virtue of A.P. Amendment Act 4 of 1999 lays down that when the State

Government declares that registration of any document or class of documents is opposed to public policy only can the registering officials can refuse to register the document presented for registration. In respect of documents presented for registration prior to the introduction of Section 22-A of the Registration Act, no registering officer can refuse to registration of a document on the ground that the vendor has no title to the land covered by the sale deed or on the ground that the land covered thereby belongs to a third party. The contention that registration of the document can be refused in view of the provisions of 1977 Act cannot be accepted because that Act applies only to assigned lands. It is nobodys case that the land covered by the sale deed executed in favour of the petitioner is an assigned land. Even assuming that it is assigned land, if it is transferred in breach of the conditions relating to alienation, 2nd respondent can always invoke the provisions of the said Act and take possession of the property under the said Act. But he cannot object to registration of the document executed in pursuance of a decree obtained by the petitioner in a civil court in a suit for specific performance. If the Government feels that it but not the petitioner or his vendor that are the owners of the property, they can by taking recourse to due process of law obtain possession thereof.

Since the document presented before the 1st respondent was executed in pursuance of a decree for specific performance obtained in a civil court and since the question of title of the property covered by the sale deed cannot be gone into and decide by the 1st respondent, his refusal to register the document is improper.

Hence, petition is allowed. Rule Nisi is made absolute.

1st respondent is directed to register the document executed in favour of the petitioner. Parties are directed to bear their own costs of this petition.

18-11-2005

Note: L.R. Copy to be marked.

MjI/*